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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)	
T02-061A	

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on January 9, 2008

Signature Sonja L. Faller

Typed or printed name Sonja L. Faller

Application Number	Filed
10/617,628	July 10, 2003
First Named Inventor	
SERKH; Alexander	
Art Unit	**Examiner**
3682	CHARLES; M.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/Inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☐ attorney or agent of record. Registration number _____

☑ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 34,661

Signature

Jerry L. Mahurin
Typed or printed name

(303) 744-5796
Telephone number

Jan 9, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date signed: January 9, 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Alexander Serkh and Andrzej Dec

Examiner: Charles, Marcus.

Serial No.: 10/617,628

Group Art Unit: 3682

Docket No.: T02-061A

Title: AUTOMATIC LOCKED-CENTER IDLER

Date: January 9, 2008

Via Fax: (571)273-8300

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The Honorable Commissioner for Patents
P.O. Box 1450
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PRE-APPEAL BRIEF

This Pre-Appeal Brief is presented in response to the Office Action mailed September 10, 2007, finally rejecting claims 1-13 in the above-identified Application. A clean copy of the claims is attached hereto for the convenience of the Panel.

Claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bruchner et al., United States Patent Number 5,820,503 (hereinafter *Bruchner*). Appellant respectfully traverses these rejections, and for the reasons advanced below respectfully asserts that the rejections are based on errors in fact and omit essential elements required for an anticipation rejection under 35 U.S.C. §102.

It is well settled that to anticipate a claim, a reference must teach every element of the claim, see M.P.E.P. § 2131. Moreover, in order for a reference to be anticipatory under 35 U.S.C.

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§ 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Appellant respectfully asserts that the rejections do not satisfy one or more of these requirements, as detailed below (particularly in light of the earlier amendments presented in this case).

Independent claims 1 and 7 recite "a dual function fastener that fixes said idler to a mount and that frictionally engages said tension adjusting member to adjust tension of said pulley on a power transmission belt as said fastener is tightened to fix said idler to said mount." Also, independent claim 13 recites "said dual function fastener frictionally engaging said tension adjusting member" and "applying tension to said power transmission belt by applying a tightening torque to said dual function fastener and thereby frictionally engaging and rotating said tension adjusting member." Appellant respectfully contends that *Bruchner* does not disclose at least the above recited elements of independent claims 1, 7 and 13.

The Office Action asserts:

> It is apparent that as the fastener (5/6) provides two components of forces, in that it fixes the tension adjustment member (3) to the mount and at the same instant the tension adjustment member (3) will actually rotate in the direction of the turning action of the fastener due to frictional torque between the contact surfaces of the fastener and the bearing mount thereby inherently tensioning on the belt.

First, Appellant notes that *Bruchner*, only teaches that screw (5) (and it head (6)) is used to clamp bearing pin (3) to protective plate 1 (col. 2, lines 63-66; and col. 3, lines 37-39), and fails to teach that it carries out any other purpose or function.

Further, at column 3, lines 29-33, *Bruchner* describes providing final tension by stating: "With the help of a wrench applied to the wrench-application surface 12, the bearing pin 3 is then turned around the eccentric 5 in anti-clockwise direction beyond the top dead center of the bearing pin 3" (emphasis added). Later in the same paragraph, *Bruchner* describes "that the bearing pin 3 does not need to be held tight till it is fixed on the protective plate by tightening the screw 5."

Thus, it is apparent that *Bruchner* does not teach, as asserted in the Office Action, that as the fastener (5/6) fixes the idler to the mount, the bearing mount (3) will actually rotate in the

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direction of the turning action of the fastener due to frictional torque between the contact surfaces of the fastener and the bearing mount thereby inherently tensioning the belt. Rather, it is clear from the teachings of *Bruchner*, beginning on line 14 of column 3, that bearing pin (3) is free to rotate until it is rotated anticlockwise (in the loosening direction for screw (5)) using wrench flats (12), to its final tensioning position, where it is then fixed to plate (1) using screw (5).

The final Office Action responds to the above arguments by asserting that:

> Bruchner et al. recognizes the dual function of the screw (see col. 3, lines 30-40). It should be noted that the bearing pin (3) is turned by a wrench until the pin (8) abuts against a circumferential end of the groove until no further turning is required. The application of the screw is introduce to tighten the bearing pin unto the plate after the bearing pin is rotational locked into position. Therefore, it can be understood that without the locking pin (8), the introduction of the screw (5) would continue to rotate the bearing pin (3) and in the same instant lock the bearing pin to the plate, thus performing a dual function.

Appellant notes, as discussed above, bearing pin (3) of *Bruchner* is turned by a wrench anti-clockwise until the pin (8) abuts against a circumferential end of the groove. The application of the screw to tighten the bearing pin to the plate after the bearing pin is rotational locked into position would be in the clockwise direction. Therefore, one of ordinary skill in the art would appreciate that if head (6) of screw (5) of *Bruchner* were to frictionally engage bearing pin (3), it would rotate pin (3) in the clockwise direction, and the end of groove 9 out of abutment with locking pin (8), contrary to the contention of the final Office Action. (See the solid line portion of Figure 3 of *Bruchner*.) Further, such rotation of bearing pin (3) in the clockwise direction would remove the tension introduced by rotation of bearing pin (3) in the anti-clockwise direction, which is clearly contrary to the teachings of *Bruchner*.

Thus, Applicant respectfully asserts *Bruchner* fails to teach that screw (5) frictionally engages a tension adjusting member to adjust tension of a pulley on a power transmission belt, or the like, as claimed by the present independent claims. Therefore, *Bruchner* fails to teach all elements of independent claims 1, 7 and 13. Hence, Appellant respectfully asserts that at least for at least the above reasons independent claims 1, 7 and 13 are patentable over the 35 U.S.C. § 102 rejections of record. Furthermore, as can be appreciated by the above discussion, there are great differences between claim 1, 7 or 13 and the art of record, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

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Claims 2-6 each ultimately depend from independent claim 1 and claims 8-12 each ultimately depend from independent claim 7. Thus, each of claims 2-6 and 8-12 inherit all elements of claims 1 and 7, respectively. Therefore, for at least the reasons advanced above in addressing the anticipation rejection of claims 1 and 7, each of claims 2-6 and 8-12 set forth features and elements not recited by *Bruchner*. Hence, Appellant respectfully asserts that claims 2-6 and 8-12 are also patentable over the 35 U.S.C. § 102 rejection of record.

Furthermore, many of claims 2-6 and 8-12 contain elements not taught or suggested by *Bruchner*. For example, even if *Bruchner* could be said to teach or suggest a tension adjusting member comprising a reaction friction surface and a resistance friction surface as recited in claims 3 and 9, *Bruchner* clearly fails to teach or suggest that the reaction friction surface cooperates with a reaction mating surface of a dual function fastener to produce a reaction torque upon said tension adjusting member greater than a resistance torque produced by a cooperation of the said resistance friction surface with a mounting surface, such as recited in claims 4 and 10. Clearly any reaction torque produced by friction of head (6) of bolt (5) of *Bruchner* with bearing pin (3) would not be greater than the friction between the base and plate (1). Thus, at least dependent claims 4 and 10 are further patentable over the rejections of record.

For all the reasons presented above, the pending claims distinguish over the prior art of record under 35 U.S.C. §§ 102 and 103. Accordingly, Appellant submits that this application is in condition for allowance. Appellant respectfully requests that the Panel call the below listed attorney if he can helpful in resolving any remaining issues or can otherwise be helpful in expediting review of the present application.

Respectfully submitted,

Date: January 9, 2008

Jerry L. Mahurin
Attorney for the Appellant
Reg. No. 34,661
The Gates Corporation
IP Law Department 10-A3
1551 Wewatta Street
Denver, CO 80202
Phone: (303) 744-5796
Cell: (303) 815-2349

JLM
Denver, Colorado

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PENDING CLAIMS

1. (Previously Presented) A locked-center idler comprising:

a pulley supported by a bearing, said bearing mounted upon a tension adjusting member, said tension adjusting member being in communication with a dual function fastener that fixes said idler to a mount and that frictionally engages said tension adjusting member to adjust tension of said pulley on a power transmission belt as said fastener is tightened to fix said idler to said mount.

2. (Previously Presented) The locked-center idler of claim 1 wherein said tension adjusting member comprises a cylindrical portion adapted to cooperate with an inner portion of a bearing and an eccentric bore axially there through.

3. (Previously Presented) The locked-center idler of claim 1 wherein said tension adjusting member comprises a reaction friction surface and a resistance friction surface.

4. (Previously Presented) The locked-center idler of claim 3 wherein said reaction friction surface cooperates with a reaction mating surface of said dual function fastener to produce a reaction torque upon said tension adjusting member greater than a resistance torque produced by a cooperation of said resistance friction surface with a mounting surface.

5. (Previously Presented) The locked-center idler of claim 1 wherein said tension adjusting member comprises an arm with a pulley mounting portion and a dual function fastener receiving bore.

6. (Previously Presented) The locked-center idler of claim 1 wherein said tension adjusting member comprises a cylindrical portion adapted to cooperate with an inner portion of a bearing, a pivot extending axially and offset from the center of said cylindrical portion, a curved slot opening through the length of said cylindrical portion and having a mean curvature with an arc that defines a radius about said pivot.

7. (Previously Presented) A locked-center idler comprising:

a pulley supported by a bearing

said bearing mounted upon a tension adjusting member, and

said tension adjusting member in communication with a dual function fastener that fixes said idler to a mount and that frictionally engages said adjusting member to adjust tension of said pulley on a power transmission belt as said fastener is tightened to fix said idler to said mount.

8. (Original) The locked-center idler of claim 7 wherein said tension adjusting member comprises a cylindrical portion adapted to cooperate with an inner portion of a bearing and an eccentric bore axially there through.

9. (Original) The locked-center idler of claim 7 wherein said tension adjusting member comprises a reaction friction surface and a resistance friction surface.

10. (Original) The locked-center idler of claim 9 wherein said reaction friction surface cooperates with an reaction mating surface of said dual function fastener to produce a reaction torque upon said tension adjusting member greater than a resistance torque produced by a cooperation of said resistance surface with a mounting surface.

11. (Original) The locked-center idler of claim 7 wherein said tension adjusting member comprises an arm with a pulley mounting portion and a dual function fastener receiving bore.

12. (Previously Presented) The locked-center idler of claim 7 wherein said tension adjusting member comprises a cylindrical portion adapted to cooperate with an inner portion of a bearing, a pivot extending axially and offset from the center of said cylindrical portion, a curved slot opening through the length of said cylindrical portion and having a mean curvature with an arc that defines a radius about said pivot.

13. (Previously Presented) A method of applying tension to a belt drive power transmission system comprising the steps of:

providing a pulley assembly,

mounting said pulley assembly upon a tension adjusting member,

attaching said tension adjusting member upon a mount that is substantially immobile in relation to an engine cylinder block with a dual function fastener, said dual function fastener frictionally engaging said tension adjusting member,

training a power transmission belt about said pulley assembly,

applying tension to said power transmission belt by applying a tightening torque to said dual function fastener and thereby frictionally engaging and rotating said tension adjusting member, and

fixing the position of said tension adjusting member by applying said tightening torque to said dual function fastener.